



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,635	02/23/2004	Stuart Neale	DN 3721	8174
2128 7590 07/28/2008 HAVERSTOCK, GARRETT & ROBERTS LLP 611 OLIVE STREET SUITE 1610 ST. LOUIS, MO 63101				
EXAMINER				
YOO, JASSON H				
ART UNIT		PAPER NUMBER		
3714				
MAIL DATE		DELIVERY MODE		
07/28/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

<b>Application No.</b> 10/784,635	<b>Applicant(s)</b> NEALE ET AL.
<b>Examiner</b> Jasson H. Yoo	<b>Art Unit</b> 3714

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 09 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 3-6, 12, 13, 18-21, 23 and 25-36.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☒ Other: See Continuation Sheet

/Robert E Pezzuto/  
Supervisory Patent Examiner, Art Unit 3714

Continuation of 13. Other:

The proposed amendments filed after a final rejection will not be entered because Claims 23, 25 raise new issues of: the sports contest including a primary object of play; said computer program including a game module operable for translating a series of possession inputs into a series of sports contest events, said possession inputs indicating the player in possession of the primary object of play; information including officiating indications, the player in possession of the primary object of play, or events; deducing the particular event based on a series of entries representative of the player in possession of the primary object of play, or deducing the particular event based on at least one entry representative of the player in possession of the primary object of play and a different event. The proposed amendment also incorporates new claims 37 and 38.

Claim 21 and the dependent claims of thereof, Applicant argues that Descalzi fails to teach the step of interpreting said possession input from user interface and deriving an event based on said position input and that Descalzi invention requires possession input as well as an event input to determine which event has occurred. Descalzi discloses receiving position input from the player. An event is determined with an event input associated with the position input. The Descalzi discloses the claim limitation. The claim does not incorporate the negative limitation of determining an event based only on possession input and without an event input.

Claims 26, 33, and the dependent claims of thereof, Applicant argues that the Examiner fails to fully ascertain the differences between the prior art and the claims in issue. More specifically, Applicant argues that the present invention interprets the type of input entered, i.e. possession, event, and/or officiating, and in conjunction with previous and subsequent inputs, makes a determination of the game event associated with the sequence of inputs. However, The Examiner has clearly addressed the differences between the prior art and the claims in issue (see prior Office Action). The prior art does disclose various type of inputs and associates these inputs as game events. This is also stated in Applicant's arguments. Page 12 of Applicant's Arguments filed on 7/9/08 states the following, "The Descalzi reference, however, does not disclose determining game events from possession input, but require possession inputs as well as an event input to determine which event has occurred." As Applicant has stated, the prior art teaches determining a game event based on various inputs. The only difference between the prior art and Applicant's invention is the specific inputs used that are associated to certain events. See Office Action filed 5/9/08 for more details.

The declarations filed on 7/9/08 were considered. The difference between the prior art and Applicant's invention is how the user enter data. However none of the declarations address the issue on why the specific method of inputting data a certain way to be recorded as certain events is not obvious. Furthermore it is not clear what the declarations are for. The declarations fails to contain evidence of criticality or unexpected results, commercial success, long-felt but unsolved needs, failure of others, skepticism of experts, etc. The declarations appear to only describe Applicant's invention.